

EXHIBIT A

THE HONORABLE JAMES L. ROBERT

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

SANDRA L. PALMER,

Plaintiff,

v.

SPRINT SOLUTIONS, INC.

Defendant.

No. 09-cv-01211 JLR

SETTLEMENT AGREEMENT

SETTLEMENT AGREEMENT
(No. 09-cv-01211 JLR)

59113-0070/LEGAL19964421.3

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TABLE OF CONTENTS

I.	DEFINITIONS.....	1
II.	RECITALS	8
III.	SETTLEMENT PURPOSES ONLY	11
IV.	COMMON FUND AND IDENTIFICATION MESSAGE REVISION	11
V.	RELEASED CLAIMS	12
VI.	PRELIMINARY APPROVAL AND SCHEDULING ORDER	13
VII.	NOTICE PROCEDURES AND CLASS MEMBER EXCLUSION.....	14
VIII.	OBJECTING TO THE SETTLEMENT	15
IX.	FINAL SETTLEMENT HEARING AND JUDGMENT.....	16
X.	CLAIMS PROCEDURES	18
XI.	TERMINATION RIGHT.....	21
XII.	MISCELLANEOUS PROVISIONS.....	22

1 **WHEREAS** Plaintiff Sandra L. Palmer ("Plaintiff") has filed this Action on behalf of
 2 herself and as representative of the Classes as defined below, and Defendant Sprint Solutions,
 3 Inc. ("Defendant" or "Sprint") denies each and every allegation and all charges of wrongdoing or
 4 liability of any kind whatsoever asserted or which could have been asserted in this Action; and
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7 **WHEREAS** Plaintiff and Defendant have agreed to a compromise of all claims that have
 8 been or could have been asserted in this Action;
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10 **NOW, THEREFORE**, Plaintiff and Defendant enter into this Settlement Agreement,
 11 subject to approval by the Court and entry of a Final Order and Judgment directing
 12 implementation of the terms and conditions of this Settlement Agreement.
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22 **I. DEFINITIONS**

23 **1.1 "Accounting"** means a detailed written account that the Claims Administrator
 24 shall maintain at all times to reflect, separately for each sub-account that may be established and
 25 in the aggregate: (1) the principal amount that Sprint deposits into the Common Fund; (2) any
 26 interest earned on the Common Fund; (3) the authorized fees and expenses (including legal
 27 expenses and claims administration fees) paid, assessed, or debited pursuant to this Settlement
 28 Agreement; (4) the amounts transferred or disbursed from the Common Fund as described in
 29 Section X; (5) the total number of claims submitted; and (6) the total amount of valid claims.
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32 **1.2 "Action"** means the civil action *Sandra L. Palmer v. Sprint Solutions, Inc.*, Case
 33 No. 09-cv-01211 JLR, which is now pending in the U.S. District Court for the Western District
 34 of Washington in front of the Honorable James L. Robart.
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37 **1.3 "Attorneys' Fees and Costs Award"** means the amount of attorneys' fees,
 38 litigation expenses, and costs awarded by the Court to Class Counsel out of the Common Fund in
 39 response to a motion by Class Counsel for attorneys' fees, expenses, and costs. This award is
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1 included under the Common Fund, is not a separate award, and shall not exceed 30% of the
 2 Common Fund.
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4 **1.4 "Automatic Dialing and Announcing Device"** means the same device as
 5 defined under RCW 80.36.400(1)(a), which is a device that automatically dials telephone
 6 numbers and plays a recorded message once a connection is made.
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9 **1.5 "CAFA Notification"** means the notification of this proposed class action
 10 settlement required under the Class Action Fairness Act, 28 U.S.C. §§ 1715(a)(1)-(2), (b).
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13 **1.6 "Claim Form and Release" or "Claim Form"** means the form materially
 14 identical to the attached Exhibit 1.
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17 **1.7 "Claims Administration Costs"** means those costs reasonably necessary to
 18 administer claims and effect the Claims Procedure.
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21 **1.8 "Claims Administrator"** means the Garden City Group, which was selected by
 22 the Parties (defined below) to administer the Notice Procedures and the Claims Procedures in
 23 Sections VII and X below.
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26 **1.9 "Claims Deadline"** means 30 days after the date set by the Court for the Final
 27 Settlement Hearing when the Court enters the Preliminary Approval and Scheduling Order.
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30 **1.10 "Claims Procedures"** means the procedures in Section X below.
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33 **1.11 "Class" or "Classes"** means and includes the three subclasses specified below:
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- 36
 37 a. Individual, non-government, and non-business Sprint customers from
 38 July 23, 2005 to the date the Court grants preliminary approval of this
 39 settlement who, while Sprint customers, resided in Washington State
 40 and received from Sprint directly or from its agents one or more
 41 commercial telephone solicitations that used an automatic dialing and
 42 announcing device. This subclass does not include Sprint employees.
 43
 44 b. Individual, non-government, and non-business Sprint customers from
 45 July 23, 2005 to the date the Court grants preliminary approval of this
 46 settlement who, while Sprint customers, resided in Washington State
 47 and received from Sprint directly or from its agents one or more
 48 commercial telephone solicitations less than one year after advising
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Sprint or its agent that he or she did not wish to be called again by Sprint. This subclass does not include Sprint employees.

- c. Individual, non-government, and non-business Sprint customers from July 23, 2005 to the date the Court grants preliminary approval of this settlement who, while Sprint customers, resided in the United States and received from Sprint directly or from its agents one or more commercial telephone solicitations more than 30 days after making a Sprint-specific internal Do Not Call request by advising Sprint or its agent that he or she did not wish to be called again by Sprint. This subclass does not include Sprint employees.

1.12 "Class Claimant" or "Class Claimants" means a member or members of the Classes who did not timely and validly request exclusion from the Classes and who file(s) a properly completed and signed Claim Form either online or postmarked no later than the Claims Deadline.

1.13 "Class Counsel" means the law firm of Williamson & Williams.

1.14 "Class Exclusion" means the process described in paragraph 7.4.

1.15 "Class Member" or "Member of the Class" means a Person within one or more of the Classes.

1.16 "Class Representative" means Plaintiff Sandra L. Palmer in her individual capacity, as Class Representative, and as a Class Member. Ms. Palmer alleges that she is a member of all three Classes as defined in paragraph 1.10.

1.17 "Commercial Solicitation" means the unsolicited initiation of a telephone conversation for the purpose of encouraging a person to purchase property, goods, or services.

1.18 "Common Fund" means the amount described in Section IV below.

1.19 "Complaint" means the Amended Complaint for Damages, Injunctive, and Declaratory Relief, Docket No. 10, filed in this Action on September 2, 2009.

1.20 "Court" means the U.S. District Court for the Western District of Washington.

1.21 "Court Disapproval" means that the Court in this Action or any other court on appeal (a) disapproves, sets aside, or modifies this Settlement Agreement; (b) declines for any

reason to enter or give effect to the Preliminary Approval and Scheduling Order or the Judgment and Order of Final Approval; or (c) holds that the Judgment and Order of Final Approval or any related judgment should be overturned or modified in any material way.

1.22 "Cy Pres Fund" means any amount remaining in the Common Fund after the payments described in Section X below, payments for class action administration, class notice, class representative payment, and attorneys' fees and costs as approved and awarded by the Court are made.

1.23 "Defendant" or "Sprint" means Sprint Solutions, Inc. and any of its Related Parties, which are the past, present, and future directors, officers, employees, partners, principals, agents, shareholders, attorneys, accountants, auditors, advisors, consultants, personal or legal representatives, tenants, households, predecessors, successors, parents, subsidiaries, affiliates, divisions, joint ventures, heirs, assigns, or related or affiliated entities of Sprint Solutions, Inc, including Sprint Nextel Corporation and all its direct or indirect operating subsidiaries, and all other subsidiaries, and its affiliates offering Sprint Nextel wireless service under a brand owned directly or indirectly by Sprint Nextel Corporation, offering wireless service in the United States.

1.24 "Defendant's Counsel" means the law firm of Perkins Coie LLP.

1.25 "Effective Date" means the date by which all of the following have occurred:

- a. The Parties have agreed upon the Settlement Agreement;
- b. The Parties have submitted to the Court and the Court has entered the following: (a) the Preliminary Approval and Scheduling Order materially identical to the attached Exhibit 2, and (b) the Judgment and Order of Final Approval materially identical to the attached Exhibit 3;
- c. The Parties have not exercised the Termination Right in Section XI below; and
- d. The Judgment has become final and is no longer subject to appeal or review, which shall be deemed to occur on the later of the following:
 - (i) if no appeal or other form of appellate review of the Judgment has been sought by any Person, the thirty-first day after the time for the filing of the notice of appeal has commenced to run under Fed. R. App. Pro. 3, taking

SETTLEMENT AGREEMENT
(No. 09-cv-01211 JLR) – 4

59113-0070/LEGAL19964421.3

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into consideration the making of any post-judgment motions and the granting of any extensions of time to make the same under Fed. R. Civ. Proc. 60(c); or (ii) if an appeal or other form of appellate review is sought from the Judgment, five days after the date on which the affirmance of such Judgment, or the dismissal, reversal or denial of such appeal or review, has become no longer subject to further judicial review, whether by re-hearing, re-hearing en banc, writ of certiorari, writ of mandamus, writ of prohibition, reconsideration, petition for review, or otherwise.

1.26 "Escrow Account" means an interest-bearing trust account designated by the Claims Administrator to hold the Common Fund as described in paragraph 4.1.

1.27 "Final Settlement Hearing" means the court hearing scheduled under the Preliminary Approval and Scheduling Order to consider the final approval of this Settlement Agreement and entry of the Judgment and Order of Final Approval.

1.28 "Instructions for Claim Form and Release" or "Instructions" means the instructions which will appear on the Claim Form and Release, which is attached as Exhibit 1.

1.29 "Internal Do-Not-Call List" means the Sprint-specific do-not-call list that tracks customers and non-customers who have asked Sprint not to call them for telemarketing purposes.

1.30 "Judgment and Order of Final Approval" or "Judgment" means a judgment materially identical to the attached Exhibit 3 and as described in Section IX below.

1.31 "Notice of Class Action Settlement and Fairness Hearing" means the short form notice materially identical to the attached Exhibit 4 and the long form notice materially identical to the attached Exhibit 5 and as described in Section VII below.

1.32 "Notice Procedures" means the procedures in Section VII below.

1.33 "Objection Deadline" is 30 days before the Final Settlement Hearing.

1.34 "Palmer" or "Ms. Palmer" means Sandra L. Palmer, the plaintiff in the Action, who is also the Class Representative.

1.35 "Party" or "Parties" mean, individually and collectively, the Class Representative, Class Members, Class Counsel, Defendant, and Defendant's Counsel.

1 **1.36 "Payment to the Class Representative"** means a single payment of \$20,000
 2 from the Common Fund to the Class Representative.
 3

4 **1.37 "Payment Protocol"** means the criteria developed by the Parties regarding Class
 5 Member eligibility for payments from the Common Fund and the rules by which the Claims
 6 Administrator will administer and make payments from the Common Fund, as set forth in
 7 Exhibit 7.
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10 **1.38 "Person"** means an individual, corporation (including all divisions and
 11 subsidiaries thereof), partnership, limited partnership, limited liability company, association,
 12 joint stock company, estate, legal representative, trust, unincorporated association, government
 13 or any political subdivision or agency thereof, and any business or legal entity and the spouses,
 14 heirs, predecessors, successors, representatives, or assigns of any of them.
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17 **1.39 "Preliminary Approval and Scheduling Order"** means a court order materially
 18 identical to the attached Exhibit 2 and discussed in Section VI.
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21 **1.40 "Pre-recorded Identification Message"** means a pre-recorded message played
 22 by Sprint or its agent to identify Sprint as the party making a telemarketing call when it dials or
 23 dialed a telephone number and a person answered the call, but Sprint or its agent is or was unable
 24 to connect the call to a live telemarketing agent within two seconds of the recipient answering
 25 the call. Federal regulations require Sprint or its agent to play this message under these
 26 circumstances. The substance of this message is: "Hi, this is a message from Sprint Nextel. We
 27 attempted to contact you for telemarketing purposes. You may contact us regarding this call, or
 28 if you don't wish to be contacted in the future, at 1-866-463-3021. Thank you."
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31 **1.41 "Related Party" and "Related Parties"** means, individually and collectively,
 32 the past, present and future directors, officers, employees, partners, principals, agents,
 33 shareholders, attorneys, accountants, auditors, advisors, consultants, personal or legal
 34 representatives, tenants, households, predecessors, successors, parents, subsidiaries, affiliates,
 35 divisions, joint ventures, heirs, assigns and/or related or affiliated entities of any Party.
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1 **1.42 "Released Claims"** means any and all claims (including Unknown Claims as
2 defined in paragraph 1.47 below), causes of action, rights, liabilities, complaints before or to a
3 regulatory or governmental body, suits, and obligations of every nature, kind or description
4 whatsoever regardless of upon what legal theory based, and regardless of whether grounded in
5 common law, statute, administrative rule or regulation, tariff, contract, tort, equity or otherwise,
6 related to claims or causes of action arising out of the delivery of pre-recorded commercial
7 solicitation messages; the use of automatic dialing and announcing devices, predictive dialers, or
8 automatic telephone dialing systems; the placing or delivery of telephone solicitations; or the
9 maintenance of an internal Do Not Call list under the Washington Automatic Dialing and
10 Announcing Device statute, the Washington Telephone Solicitation Statute, the Washington
11 Consumer Protection Act, the federal Telephone Consumer Protection Act, and any other statute,
12 which a Releasing Party had, has, may have, or which any other Person had, has, or may have
13 through a Releasing Party (whether by operation of law, assignment, or subrogation) against a
14 Released Party from the beginning of time through the Effective Date, based in whole or in part
15 upon any act, omission, transaction, thing, matter, event or occurrence occurring or arising from
16 the beginning of time through the Effective Date, or any consequence, effect, or result arising
17 from any such act or omission, regardless of whether such consequence, effect, or result arises
18 before or after the Effective Date (including, but not limited to, unknown injuries or unknown
19 complications from known injuries) concerning any claim or allegation that has been or could
20 have been asserted in the Action. This does not include claims by non-Sprint customers.

21 **1.43 "Released Party"** means the Defendant and its Related Parties.

22 **1.44 "Releasing Party"** means, individually and collectively, the Class
23 Representative, Class Members, and their Related Parties, other than Class Members who have
24 duly and timely excluded themselves from the Classes under the procedures in Section VII.

25 **1.45 "Settlement Agreement"** means, individually and collectively, this Class Action
26 Release and Settlement Agreement, including its terms, provisions, and exhibits; the settlement

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SETTLEMENT AGREEMENT
(No. 09-cv-01211 JLR) – 7

59113-0070/LEGAL19964421.3

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embodied by the Settlement Agreement, the Common Fund, Revisions to Identification Message, Notice Procedures, Claims Procedures; and any order concerning this agreement or the settlement embodied by this agreement including, but not limited to, the Preliminary Approval and Scheduling Order and the Judgment and Order of Final Approval.

1.46 "Termination Right" is described in Section XI, below.

1.47 "Unknown Claims" means any Released Claims that a Releasing Party does not know or suspect to exist in his, her, or its favor now or as of the Effective Date. This includes but is not limited to, claims, which, if known by him, her, or it, might have affected his, her, or its settlement with, and release of, the Released Parties, and/or might have affected his, her, or its decision not to object to or request exclusion from this Settlement Agreement. This includes those Released Claims that were unknown, unsuspected, and undisclosed, or those Released Claims that arise from facts discovered by a Releasing Party in addition to or different from those that the Releasing Party or Releasing Parties now know or believe to be true with respect to the subject matter of the Released Claims.

II. RECITALS

2.1 The Action was initiated on July 23, 2009 in the Superior Court of Washington for King County. Sprint removed the matter under the Class Action Fairness Act; Ms. Palmer did not contest removal. On September 2, 2009, Ms. Palmer filed an Amended Complaint for Damages, Injunctive, and Declaratory Relief, which is the operative complaint in the Action. Ms. Palmer and Sprint stipulated to the filing of a Second Amended Complaint, but Ms. Palmer never filed the Second Amended Complaint. Ms. Palmer also presented Sprint with a draft Third Amended Complaint, which she also did not file or move to file.

2.2 Ms. Palmer has been a Sprint customer since 2003. She alleges that Sprint made various telemarketing calls to her in 2006 and 2007 that used a pre-recorded solicitation message or an automatic dialing and announcing device, some of which were made after she requested not to receive telemarketing calls from Sprint.

1 2.3 Based on these allegations, Ms. Palmer, the Class Representative, asserted claims
2
3 against Sprint under the Washington Automatic Dialing and Announcing Device statute, the
4
5 Washington Consumer Protection Act, and the federal Telephone Consumer Protection Act. In
6
7 her proposed but unfiled Third Amended Complaint, the Class Representative also asserted a
8
9 claim against Sprint under the Washington Telephone Solicitation Statute. The Class
10
11 Representative is seeking monetary, declaratory, and injunctive relief.

12 2.4 Class Counsel have conducted a thorough investigation into the events underlying
13
14 the claims asserted by the Class Representative including, but not limited to, reviewing and
15
16 analyzing more than 2,500 pages of documents from Defendant and the vendor that Sprint used
17
18 in part to conduct the telemarketing campaign and that targeted the Class Representative and
19
20 other members of the Classes, propounding and reviewing responses to interrogatories and
21
22 requests for admission directed to Sprint, and subpoenaing and reviewing documents from the
23
24 Washington Attorney General Office, the Federal Communications Commission, and the Federal
25
26 Trade Commission.

27 2.5 Class Counsel and Defendant's Counsel have engaged in extensive telephonic and
28
29 in-person negotiations regarding this Settlement Agreement. The Class Representative and Class
30
31 Counsel believe that the allegations in the Complaint and their claims for relief have substantial
32
33 merit and that Defendant's defenses are without merit. The Class Representative and Class
34
35 Counsel continue to affirm the allegations in the Complaint but recognize that Defendant sharply
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37 disputes their claims and that the ultimate outcome on the merits is uncertain. The Class
38
39 Representative and Class Counsel have also considered the length and expense of continued
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41 proceedings necessary to pursue the Action against the Defendant through trial and appeals.
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43 Therefore, the Class Representative and Class Counsel desire to settle the Actions on the terms
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45 and provisions in this Settlement Agreement and believe it is fair, reasonable, and adequate, and
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47 in the best interests of the Class Representative and the Classes.
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SETTLEMENT AGREEMENT
(No. 09-cv-01211 JLR) – 9

59113-0070/LEGAL19964421.3

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1 2.6 Defendant believes that the allegations and claims in the Complaint are without
 2 merit and that its defenses have substantial merit. Defendant has denied and continues to deny
 3 the allegations in the Complaint. Defendant has asserted and continues to assert that the claims
 4 in the Complaint are inappropriate for class certification and that numerous individual issues
 5 predominate. Defendant, however, also recognizes that the Class Representative sharply
 6 disputes its defenses and that the ultimate outcome on the merits is uncertain. Defendant has
 7 also considered the length and expense of continued proceedings necessary to pursue the Action
 8 against the Class Representative through trial and appeals. Defendant is entering into this
 9 Settlement Agreement solely to avoid the continuing additional expenses, inconvenience, and
 10 distraction of the Action, without admitting any wrongdoing or liability and without waiving any
 11 defense or argument that it did or could have asserted in the Action. By doing so, Defendant
 12 desires to settle, compromise, and terminate with prejudice the Action and to put to rest forever
 13 all claims which have or could have been asserted, or which arise from or in any way concern the
 14 act, facts, transactions, occurrences, representations, or omissions alleged in the Complaint.

15 2.7 Despite its assertions that the claims in the Complaint are inappropriate for class
 16 certification and that numerous individual issues predominate, Defendant stipulates for the
 17 purposes of this Settlement Agreement to the definition of the Classes in paragraph 1.10 above;
 18 to Ms. Palmer serving as the Class Representative as defined in paragraph 1.15 above for the
 19 Class Members; and to Class Counsel as defined in paragraph 1.12 above serving as counsel to
 20 the Classes.

21 2.8 Defendant waives any and all objection to the Attorneys' Fees and Costs Award
 22 and Payment to the Class Representative as set forth above. Defendant acknowledges that the
 23 amount of the Attorneys' Fees and Cost Award is intended to reflect the reasonable and fair
 24 amount of attorneys' fees, expenses, and costs related to this Settlement Agreement.

III. SETTLEMENT PURPOSES ONLY

3.1 Rule 408 of the Federal Rules of Evidence and the Washington Evidence Code, and similar provisions govern this Settlement Agreement. It is for settlement purposes only. Neither the fact of, nor any term or provision contained in, this Settlement Agreement or its exhibits, nor any action taken under it shall constitute, be construed as, or be admissible in evidence as (1) any admission of the validity of any claim or fact alleged by the Class Representative and the Classes in this Action or any other pending or subsequently filed action; (2) evidence of any wrongdoing, fault, violation of law, or liability of any kind by the Defendant; (3) an admission by Defendant of any claim or allegation made in this Action or any action; nor (4) admission by the Class Representative, Class Members, or Class Counsel of the validity of any fact or defense asserted against them in the Action or any action.

IV. COMMON FUND AND IDENTIFICATION MESSAGE REVISION

4.1 In consideration for the dismissal of the Action with prejudice and the Releases in Section V, Defendant agrees that within ten days after the Effective Date, it shall deposit a total of five and one-half million dollars (\$5,500,000.00) into the Escrow Account for the benefit of the Class Members, Class Representative, and Class Counsel, less any amounts that have already been deposited into the Escrow Account for the purposes described in Sections 4.2(a) and (b). This will be known as the Common Fund and, from the time of the deposit by Sprint, the Claim Administrator will be solely responsible for administering the Common Fund under this section and the Payment Protocol. Any interest generated from the Common Fund shall remain in the Common Fund and the Escrow Account to be distributed consistent with this Settlement Agreement.

4.2 The Common Fund shall be distributed as follows:

- a. First, to pay the cost of the Notice of Class Action Settlement and Final Settlement Hearing distributed according to Section VII, except for Sprint's costs for notifying current customers via billing inserts or billing mailers, which Sprint will independently pay;

SETTLEMENT AGREEMENT
(No. 09-cv-01211 JLR) – 11

59113-0070/LEGAL19964421.3

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- b. Second, to pay Claims Administration Costs;
- c. Third, to pay the Payment to the Class Representative;
- d. Fourth, to pay the Attorneys Fees' and Costs Award;
- e. Fifth, to Class Members who make valid claims as specified under the Payment Protocol, and
- f. Sixth, any amount in the Escrow Account after paying valid claims and other payments as described above shall be a Cy Pres Fund, which shall be donated to the Legal Aid for Washington Fund. This Cy Pres Fund shall not be unclaimed property under the laws of Washington or any other state.

4.3 No right, title, or interest in the Common Fund transfers until the Effective Date, and any such right, title, or interest is subject to Sprint's right of reversion. Sprint shall pay no additional funds under this Settlement Agreement, except for its internal costs of notice as described above.

4.4 In addition, in consideration for the dismissal of this Action with prejudice and the Releases in Section V, Defendant agrees that within ten days after the Effective Date, it shall discontinue using the current version of the pre-recorded message heard when a consumer calls the toll-free number left by the pre-recorded identification message and instead replace the message with a message materially identical in language and meaning to the script attached as Exhibit 6.

V. RELEASED CLAIMS

5.1 This Settlement shall be the sole and exclusive remedy for any and all Released Claims against the Released Party and its Related Parties. The Class Representative and each Class Member (and each of their Related Parties) shall be permanently barred from initiating, asserting, or prosecuting Released Claims or any claims released under this Agreement.

5.2 On entry of the Judgment, the Class Representative, for herself and as the Class Representative (and her Related Parties), without any other action, fully, finally, and forever releases, relinquishes, and discharges the Released Party from the Released Claims. Without

1 limiting the breadth of this release, the Class Members (and their Related Parties) who did not
 2 validly request exclusion from the Classes, regardless of whether the Class Members received a
 3 payment from the Common Fund or executed and delivered the Claim Form and Release, on
 4 behalf of themselves and their Related Parties, without any further action, shall be deemed to
 5 have fully, finally, and forever released, relinquished, and discharged the Released Party from
 6 the Released Claims and, by operation of the Judgment, all of the Released Claims that any
 7 Releasing Party has or had against the Released Party shall be dismissed with prejudice.
 8

9 **5.3** Without suggesting or agreeing that the California Civil Code would apply to
 10 this release, the Releasing Parties expressly waive and release, on the Effective Date, any and
 11 all provisions, rights, and benefits conferred by Section 1542 of the California Civil Code
 12 which provides:
 13

14 Section 1542. Certain Claims Not Affected by General Release.
 15 A general release does not extend to claims which the creditor does
 16 not know or suspect to exist in his favor at the time of executing
 17 the release, which if known by him must have materially affected
 18 his settlement with the debtor.
 19

20 Releasing Parties also expressly waive and release any and all provisions, rights, and benefits
 21 conferred on them by a statute, regulations, or ordinances of any other jurisdiction which has a
 22 statutory provision similar to Section 1542.
 23

24 **VI. PRELIMINARY APPROVAL AND SCHEDULING ORDER**

25 **6.1** As soon as reasonably practicable after executing this Agreement, Class Counsel
 26 and Defendant's Counsel shall jointly: (1) file the Settlement Agreement, including the attached
 27 exhibits, with the Court; (2) file a joint motion for preliminary approval of the Settlement
 28 Agreement with the Court; and (3) notify the Court of the filings and request entry by the
 29 Court, on the earliest date acceptable to the Court, of the Preliminary Approval and Scheduling
 30 Order, which shall be materially identical to the proposed order attached as Exhibit 2.
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1 6.2 Within 10 days of this joint filing, Defendant shall provide the CAFA
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3 Notification to the Appropriate State officials (as defined under the relevant statute) for each
4
5 state in which a Class Member resides and to the Appropriate Federal official (as defined under
6
7 the relevant statute).

8 **VII. NOTICE PROCEDURES AND CLASS MEMBER EXCLUSION**

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10 7.1 After the Court enters the Preliminary Approval and Scheduling Order, the
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12 Claims Administrator will provide published Notice to the Classes by a form materially
13
14 identical to the Notice of Class Action Settlement and Final Settlement Hearing attached as
15
16 Exhibit 4, and in accordance with the publication plan described in the Declaration of Jeanne
17
18 Finegan being filed with the Joint Motion for Preliminary Approval. The Claims Administrator
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20 will provide this short form Notice according to the parties' Notice plan not later than 70 days
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22 after the Order Granting Preliminary Approval of the Settlement is entered. The Claims
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24 Administrator will also provide notice by email to former Sprint customers and by mail to any
25
26 Class Members identified by Sprint.

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28 7.2 In addition, Sprint will provide a form materially identical to the Notice of Class
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30 Action Settlement and Final Settlement Hearing, attached as Exhibit 4, as a billing insert or
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32 billing addition to all of Sprint's current customers. Sprint will provide this Notice not later
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34 than 70 days after the Order Granting Preliminary Approval of the Settlement is entered. Sprint
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36 does not have any additional duty to ascertain the identities or addresses of Class Members.

37
38 7.3 Each of the published Notice, individual mailings, emails, and billing insert will
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40 refer potential Class Members to a website created and maintained by the Claims Administrator
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42 that will provide additional information about the settlement, including the long form Notice,
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44 attached as Exhibit 5, and permit Class Members to make claims by completing an on-line
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46 claim form. The published Notice and billing insert will also provide Class Members with a
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48 telephone number, provided and maintained by the Claims Administrator for Class Members,
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50 to call for more information and to request a claim form or the long form Notice.
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SETTLEMENT AGREEMENT
(No. 09-cv-01211 JLR) – 14

59113-0070/LEGAL19964421.3

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1 7.4 A Class Member can request in writing to be excluded from the Class by
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3 mailing a letter to the Claims Administrator that is postmarked at least 30 days prior to the date
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5 scheduled by the Court for the Final Settlement Hearing.

6 7.5 At least fourteen days before the Final Settlement Hearing, Class Counsel will
7
8 provide a declaration of the Claims Administrator to the Court, with a copy to Defendant's
9
10 Counsel, attesting that the Claims Administrator disseminated the Notice consistent with this
11
12 Settlement Agreement and detailing any written requests to be excluded from the Class.

13 7.6 Also at least 14 days before the Final Settlement Hearing, Sprint will provide a
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15 declaration to the Court, with a copy to Class Counsel, attesting that it disseminated Notice
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17 consistent with this Settlement Agreement.
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20 7.7 Not later than 70 days from the date the Court enters the Preliminary Approval
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22 and Scheduling Order, Class Counsel shall cause to be posted on the website created and
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24 maintained by the Claims Administrator their Petition for Approval of Attorneys' Fees and
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26 Costs that they will request the Court award them. The Petition will include documentation of
27
28 all hours worked on this case by Class Counsel and will state that it will be updated as part of
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30 Class Counsel's memorandum to be filed in support of the Final Order and Judgment, which
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32 shall be filed no later than ten days before the Final Settlement Hearing.
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35 VIII. OBJECTING TO THE SETTLEMENT

36 8.1 Any Class Member other than the Class Representative may object to this
37
38 Settlement Agreement and to Class Counsel's request for attorneys' fees and costs by
39
40 complying with the following procedures:
41
42

- 43 a. By the Objection Deadline, the Class Member must notify in writing the
44 Court, Class Counsel, and Defendant's Counsel of his or her intent to
45 appear at the Final Settlement Hearing and object.
- 46 b. The objecting Class Member's written objection must include:
47
48 (1) A heading referring to the Action as "*Sandra L. Palmer v. Sprint*
49 *Solutions, Inc.*, Case No. 09-cv-01211 JLR";
50
51

SETTLEMENT AGREEMENT
(No. 09-cv-01211 JLR) – 15

59113-0070/LEGAL19964421.3

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- (2) A statement of the Class Member's specific objection(s) to any matter before the Court relating to proposed approval of the class action settlement in this Action;
- (3) If the Class Member wants to appear at the Final Settlement Hearing, a statement that he or she intends to appear, and the grounds or specific reasons why the Class Member wants to appear and be heard;
- (4) Any documents or statements the Class Member wants the Court to consider at the Final Settlement Hearing; and
- (5) If the Class Member is represented by counsel, the counsel's name, address, and telephone number. If a Class Member hires an attorney, the attorney must file a notice of appearance with the Clerk of the Court and deliver a copy of this filing to Class Counsel and Defendant's Counsel before the Objection Deadline.

8.2 If an objection does not provide all the information listed in paragraph 8.1(b), is received after the Objection Deadline, or is not timely received at the correct addresses for Class Counsel and Defendant's Counsel by the Objection Deadline, it shall be invalid and will not be considered. A Class Member who complies with the requirements in paragraph 8.1 may appear *pro se* at the Final Settlement Hearing or may enter an appearance at the Final Settlement Hearing through counsel of his or her own choosing and at his or her own expense.

8.3 The Class Representative agrees that (1) the Settlement Agreement is fair and reasonable to the Classes and the Class Representative in her individual capacity, her capacity as a Class Member and as Class Representative, and (2) she does not and will not object to the Settlement Agreement and waives any right she may have had to do so.

IX. FINAL SETTLEMENT HEARING AND JUDGMENT

9.1 At the Final Settlement Hearing, the Parties shall apply to the Court for entry of the Judgment and Order of Final Approval materially identical to the attached Exhibit 3 and providing the following:

- a. Declaring that the Judgment binds all Class Members other than those who filed valid and timely requests for exclusion under paragraph 7.4;
- b. Finally approving this Settlement Agreement and finding its terms to be fair, reasonable, and adequate, and directing that the procedures for creating the Common Fund and Claims Administration begin;
- c. Approving the Payment to the Class Representative and the Attorneys' Fees and Expenses Award;
- d. Approving the Notice Procedures described in Section VII and the Claims Procedures in Section X and finding that the notice procedures complied with the United States Constitution, the Washington State Constitution, and any other applicable laws or rules;
- e. Directing the Claims Administrator to administer the Claims according to Section X of the Settlement Agreement and the Payment Protocol;
- f. Dismissing the Complaint on the merits with prejudice;
- g. Permanently barring the Class Representative and her Related Parties and all Class Members and their Related Parties, other than those who filed valid and timely requests for exclusion under paragraph 7.4, from asserting or prosecuting any claims against the Released Parties on any of the Released Claims;
- h. Declaring that the Class Representative and her Related Parties, without any further action, fully, finally and forever release, relinquish, and discharge the Released Parties from the Released Claims, and that, without limiting the breadth of this release, the Class Members and their Related Parties who did not validly request exclusion from the Class, regardless of whether the Class Members received a payment from the Common Fund or execute and deliver the Claim Form and Release, on behalf of themselves and their Related Parties, without any further action, shall be deemed to have fully, finally, and forever released, relinquished, and discharged the Released Party from the Released Claims and, by operation of the Judgment, all of the Released Claims that any Releasing Party has or had against the Released Party shall be dismissed with prejudice;
- i. Ordering the Defendant and the Class Representative, on behalf of themselves and the Class, to assume responsibility for their own respective attorneys' fees, expenses, and costs, except for the Attorneys' Fees and Costs Award;

- j Stating that the Class Representatives, Classes, and Class Counsel shall not and may not offer or seek to admit the Settlement Agreement into evidence or refer to it in any way (orally or in writing) in any proceeding other than the Action and/or a proceeding involving an effort to enforce the Settlement Agreement, including, but not limited to, an effort to enforce the release of the Released Claims;
- k Stating that the Settlement Agreement shall have no precedential, collateral estoppel, statute of limitations or *res judicata* effect against Defendant (or its respective Related Parties) in any matter or proceeding other than this Action or in a proceeding involving an effort to enforce the Settlement Agreement, including, but not limited, an effort to enforce the release of the Released Claims;
- l. Ordering the Claims Administrator, Defendant, Class Representative, Classes, and Class Counsel to comply with the Claims Procedures described in Section X; and
- m. Retaining continuing and exclusive jurisdiction to enforce the terms of this Agreement and the Claims Procedures described in Section X.

9.2 Memoranda in support of the request for entry of Judgment and Order of Final Approval shall be filed no later than 10 days before the Final Settlement Hearing.

X. CLAIMS PROCEDURES

10.1 The Claims Administrator will provide an on-line claim form with instructions that can be completed by a Class Member at the website referenced in paragraph 7.3, *infra*, and also will mail upon request an original Claim Form, attached as Exhibit 1, which will include its Instructions to Class Members with the Notice of the Settlement as described in paragraph 7.1 above.

10.2 Neither Defendant nor the Claims Administrator shall have any obligation to provide the Notice of the Settlement, the Instructions, and the Claim Form to any member of the Class in any manner other than as described in paragraphs 7.1 through 7.3 above.

10.3 Members of the Classes must timely submit a properly completed, signed, and postmarked original Claim Form or a completed online Claim Form to make a claim under this Settlement. The form submitted must be the original Claim Form attached at Exhibit 1.

1 **10.4** Class Members must postmark a hard copy completed Claim Form or submit a
 2 complete online Claim Form before the Claims Deadline, which as defined above, is 30 days
 3 after the Final Settlement Hearing. No Person may make a claim to, or receive any monetary
 4 compensation under this Settlement Agreement, unless the Person is a Class Claimant and
 5 complies with these Claims Procedures.
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10 **10.5** A submitted Claim Form must satisfy the following conditions to be valid:
 11 (1) the Claim Form must provide all the information requested; (2) the Claim Form (and the
 12 included Release of Claims) must be duly executed and dated by the Class Member submitting
 13 the Claim Form; (3) if the Person executing the Claim Form is acting in a representative
 14 capacity because the Class Member is incapacitated, the Claim Form must be accompanied by
 15 a statement or other documentation affirming the authority of that Person to act on behalf of,
 16 and to bind, the Class Member; and (4) the completed Claim Form must be postmarked or
 17 submitted online no later than the Claims Deadline. If a mailed Claim Form is not dated, but
 18 the envelope in which the Claim Form was mailed to the Claims Administrator has a valid and
 19 readable postmark, then the Claim Form will not be rejected for lack of a date.
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30 **10.6** A Class Member may not assign or otherwise transfer to any other Person the
 31 right to make a claim under the Settlement Agreement in this Action.
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34 **10.7** Once received by the Claims Administrator, a Claim Form shall be deemed
 35 submitted to the Claims Administrator in accordance with these provisions if mailed by first
 36 class U.S. Mail and postmarked with a date on or before the Claims Deadline.
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40 **10.8** By submitting a Claim Form, each Class Claimant submits himself, herself, or
 41 itself to the jurisdiction of the Court for the purpose of asserting a claim to monetary
 42 compensation under the Settlement Agreement in this Action, and each Claim Form will be
 43 subject to examination, investigation, and final determination by the Claims Administrator as to
 44 a Class Claimant's entitlement to monetary compensation under this Settlement Agreement.
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1 **10.9** The Claims Administrator will review each properly and timely submitted Claim
2 Form and the amount of monetary compensation, if any, will be determined, in good faith, by
3 the Claims Administrator according to the Payment Protocol.
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5 **10.10** Before processing the Claim Forms, Class Counsel and Defendant's Counsel
6 shall have an opportunity to review the processes developed by the Claims Administrator for
7 administering the Claims Procedures.
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9 **10.11** The Claims Administrator shall report to Class Counsel and Defendant's
10 Counsel on a reasonable basis regarding the progress of claims review and administration.
11

12 **10.12** If any issue arises regarding whether or the extent to which a Class Claimant is
13 entitled to monetary compensation under this Settlement Agreement, Defendant and Class
14 Counsel shall make every effort to resolve the matter by agreement and in good faith under the
15 Payment Protocol. If Defendant and Class Counsel are unable to resolve the matter by
16 agreement, Defendants or Class Counsel may request that the Court resolve the matter.
17

18 **10.13** Under no circumstances shall Defendant, its Related Parties, the Claims
19 Administrator, its authorized agents, or any person affiliated with Defendant or acting on
20 Defendant's behalf have any liability to a Class Member relating to the performance of the
21 duties of claims review and administration required under this Settlement Agreement and the
22 Judgment, except as expressly provided in this Settlement Agreement. No Person, including
23 the Class Representative and members of the Classes, shall be permitted to commence a cause
24 of action regarding such matters. Any issue regarding the performance by Defendant and/or
25 the Claims Administrator of duties under this Settlement Agreement or the Judgment may be
26 raised only by motion to the Court under its continuing and exclusive jurisdiction over the
27 Action.
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29 **10.14 Initial Eligibility Rules:** To be eligible for monetary compensation under this
30 Settlement Agreement, a Class Claimant must be a Class Member and meet the criteria
31 specified in the Payment Protocol.
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1 **10.15** If the Claims Administrator determines that a Class Claimant satisfies the
 2 criteria specified in the Payment Protocol, then the Claims Administrator shall determine
 3 whether the Class Claimant is entitled to monetary compensation under the Settlement based on
 4 the rules in the Payment Protocol.
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8 **XI. TERMINATION RIGHT**

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 10 **11.1** Except if Defendant, Class Representative, or Class Counsel exercises this
 11 Termination Right, this Settlement Agreement may be terminated only by the written, mutual
 12 agreement of the Class Representative, Class Counsel, and Defendant.
 13
 14

15 **11.2** Defendant, in its sole and absolute discretion, or the Class Representative and
 16 Class Counsel, in their sole and absolute discretion, shall have the option to terminate this
 17 Settlement Agreement by giving written notice to the other Party and the Court at any time
 18 before the Effective Date if any one or more of the following occurs:
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- 25 a. The Court does not enter the Preliminary Approval and Scheduling
 26 Order identical to the attached Exhibit 2, unless the Parties agree
 27 otherwise; or
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- 29 b. The Court does not enter the Judgment identical to the attached
 30 Exhibit 3, unless the Parties agree otherwise; or
 31
- 32 c. There is a Court Disapproval, or any court in any way:
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 34 (i) Changes, modifies, reverses, vacates, or orders such changes or
 35 modification of the Preliminary Approval and Scheduling Order,
 36 the Notice, the Notice Procedures, the Claims Procedures, and/or
 37 the Judgment, regardless of the materiality of the change or
 38 modification; or
 39
 40 (ii) Makes any other change or modification or orders any other
 41 change or modification that would result in a change or
 42 modification of the Settlement Agreement, regardless of the
 43 materiality of the change or modification, unless the Parties agree
 44 otherwise; or
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- d. Any court in any way changes or modifies the payments or other forms of compensation under this Settlement Agreement, including, but not limited to, the amount of the Attorneys' Fees and Costs Award; or
- e. The Effective Date does not occur within 365 days after the Parties first file this Settlement Agreement with the Court.

11.3 The Parties intend for the Termination Right to be exercised in good faith and only in the event of material changes or modifications to this Settlement Agreement.

11.4 If a Party terminates this Settlement Agreement, it shall become null and void, and it and all negotiations and proceedings relating to it shall be without prejudice to the rights of any and all the Parties, who shall be restored to their respective positions existing before the execution of this Settlement Agreement, except that all deadlines in the Action shall be reset. Also, the terms and provisions of this Settlement Agreement, except this paragraph and any other paragraph that states that it shall survive termination or Court Disapproval, shall have no further force and effect with respect to the Parties and shall not be used or referred to in the Action or in any other proceeding for any purpose. Any judgment or order entered by the Court under this Agreement (except for the Preliminary Approval and Scheduling Order that vacated any deadlines in the Action) shall be treated as vacated, *nunc pro tunc*.

XII. MISCELLANEOUS PROVISIONS

12.1 **Statement of Compromise.** Each Party acknowledges and stipulates that the compromise and settlement forming the basis of this Settlement Agreement have been arrived at after thorough bargaining and negotiation and represent a final mutually agreeable compromise of these matters. Class Representative and Class Counsel further acknowledge that they may later discover facts in addition to or different from those which they now know or believe to be true with respect to matters encompassed by the Action or this Settlement Agreement, but that it is the intention of each Party to fully, finally, and forever settle the matters provided by this Settlement Agreement, notwithstanding the discovery or existence of any such additional or different facts.

SETTLEMENT AGREEMENT
(No. 09-cv-01211 JLR) – 22

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1 **12.2 Effect of Court Disapproval.** In the event of a Court Disapproval, the Parties
2 shall use their best efforts to repair deficiencies to obtain Court approval. These best efforts
3 shall not require Sprint to pay any sums other than those provided in this Settlement
4 Agreement. In the event these best efforts are unsuccessful, 60 days after the Court
5 Disapproval, this Settlement Agreement shall become null and void, and the Action shall revert
6 to its status immediately before the execution of this Settlement Agreement. If that happens,
7 the Parties shall jointly move that any and all orders entered under to this Settlement
8 Agreement be vacated and shall proceed with the Action as if this Settlement Agreement had
9 never been executed. If, however, the Parties, within 15 days of Court Disapproval jointly elect
10 to appeal or seek review of the Court Disapproval, this Settlement Agreement shall not be null
11 and void until the Court Disapproval becomes final after the Parties' appeal or request for
12 review results in a reversal, withdrawal, or overturning of the Court Disapproval. If the
13 Settlement Agreement is determined to be null and void, the Parties shall not refer to the fact
14 and terms of this Settlement Agreement to establish liability or support the Parties' substantive
15 positions in the Action, and any and all funds paid, less actual expenses incurred by the Claims
16 Administrator, shall be returned to Sprint.

17 **12.3 Washington Law.** The rights and obligations of the Parties are to be construed,
18 interpreted, and enforced solely according to the laws of the State of Washington without
19 giving effect to any conflict of laws principles. The Parties agree that any judicial proceeding
20 arising out of or resulting from this Settlement Agreement or its breach shall be filed only in
21 the U.S. District Court for the Western District of Washington in Seattle.

22 **12.4 Execution in Counterparts.** This Agreement may be executed in one or more
23 counterparts and delivered by facsimile or email to counsel. All executed counterparts,
24 including those delivered by facsimile or email, shall be deemed to be one and the same
25 instrument. A facsimile or email copy shall be considered an original for all purposes.

1 **12.5 No Admission.** The Parties specifically understand and stipulate that
 2
 3 (1) nothing in this Settlement Agreement or in its negotiation are an admission by any of the
 4 Parties or Released Parties for any purpose, and (2) the Parties and the Released Parties all
 5 deny liability for the allegations in the Action. Plaintiff also understands that this Settlement
 6 Agreement has been made for business reasons. Nothing in this Settlement Agreement is to be
 7 construed as Sprint agreeing that this case was appropriate for class action status or
 8 certification. This provision shall survive the termination or voiding of the Settlement
 9 Agreement.
 10

11 **12.6 Modifications Only in Writing and Authorization of Class Counsel.** This
 12 Settlement Agreement may be amended or modified only in writing and signed by all Parties
 13 (or their assignees or successors-in-interest), Class Counsel, and Defendant's Counsel, except
 14 that Plaintiff, individually and as Class Representative, expressly authorizes Class Counsel to
 15 (1) take all appropriate actions required or permitted by the Class under this Settlement
 16 Agreement, and (2) enter into modifications or amendments on behalf of the Class as Class
 17 Counsel deem appropriate. This Settlement Agreement reflects the entire agreement of
 18 Plaintiff, the Classes, and Sprint and supersedes all other oral statements or written documents.
 19

20 **12.7 Integrated Agreement.** The attached Exhibits are material parts of this
 21 Settlement Agreement and are fully incorporated by reference. This Settlement Agreement and
 22 its Exhibits are the entire, fully integrated agreement among the Parties and supersedes all other
 23 written and unwritten agreements and understandings regarding settlement of the Action.
 24

25 **12.8 Severability.** If any part of this Settlement Agreement is, for any reason, held
 26 illegal, invalid, or unenforceable, it shall not affect any other part of this Settlement Agreement
 27 and this Settlement Agreement shall be construed and enforced as if the illegal, invalid, or
 28 unenforceable part had not been contained in the Settlement Agreement.
 29

30 **12.9 Legal Representation.** The Parties acknowledge that they have been
 31 represented by qualified legal counsel in connection with the Action and the negotiation,
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 SETTLEMENT AGREEMENT
 (No. 09-cv-01211 JLR) – 24

59113-0070/LEGAL19964421.3

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 Fax: 206.359.9000

1 drafting, and execution of the Settlement Agreement. The language used in this Settlement
 2 Agreement is language chosen by all Parties to express their mutual intent, and no rule of strict
 3 construction against any Party will apply to any part of this Agreement.
 4

5
 6 **12.10 Approval Procedure.** The Parties reserve the right, by agreement and subject
 7 to the Court's approval, to grant reasonable extensions of time that might be necessary to carry
 8 out this Settlement Agreement. All applications for Court approval or orders required under
 9 this Settlement Agreement shall be made on notice to Class Counsel and Defendant's Counsel.
 10

11
 12 **12.11 Court Jurisdiction.** This Settlement Agreement and its administration shall be
 13 under the authority of the Court, which shall retain jurisdiction to protect, preserve, and
 14 implement the Settlement Agreement, including, but not limited to, the Release. The Court
 15 expressly retains jurisdiction to enter orders as may be necessary for administering and
 16 implementing the Settlement Agreement, including, but not limited to, orders enjoining Class
 17 Members from prosecuting or otherwise pursuing Released Claims.
 18

19
 20 **12.12 Litigation Expenses.** Each of the Parties shall bear his, her, or its own expenses
 21 related to the Action, except as otherwise provided in this Settlement Agreement.
 22

23
 24 **12.13 Cooperation and Commercially Reasonable Efforts.** The Parties agree to
 25 cooperate in executing documents and pleadings reasonably necessary to obtain approval of
 26 and to implement this Settlement Agreement. The Parties also agree to use commercially
 27 reasonable efforts to perform all terms of this Agreement.
 28

29
 30 **12.14 Counting Days.** Unless otherwise noted, all periods of time in this Settlement
 31 Agreement are calendar days, not business days. If a period of time in this Agreement expires
 32 on a weekend or legal holiday, the period shall be extended to the next business day.
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 35 **12.15 Effective Date of the Agreement.** This Settlement Agreement has been
 36 executed by the Parties below, but is deemed entered into as of the date set forth below.
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 SETTLEMENT AGREEMENT
 (No. 09-cv-01211 JLR) – 25

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 Phone: 206.359.8000
 Fax: 206.359.9000

1 **12.16 Unenforceable Until Full Execution.** This Settlement Agreement is not
2 enforceable until executed by each of the Parties below.
3
4

5
6 The parties enter into this Settlement Agreement this ____ day of _____, 2011.
7
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10
11 **SANDRA L. PALMER**

12 **SPRINT SOLUTIONS, INC.**

13
14 *Sandra L. Palmer*
15

16 By: _____
17 Jerry B. Adriano

18 Title: Vice-President Customer Experience,
19 Telesales & Base Management Outreach
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SETTLEMENT AGREEMENT
(No. 09-cv-01211 JLR) – 26

59113-0070/LBGAL19964421.3

Perkins Cole LLP
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Seattle, WA 98101-3099
Phone: 206.359.8000
Fax: 206.359.9000

1 **12.16 Unenforceable Until Full Execution.** This Settlement Agreement is not
2 enforceable until executed by each of the Parties below.
3
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5
6 The parties enter into this Settlement Agreement this 13th day of April, 2011.
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11 **SANDRA L. PALMER**
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13 **SPRINT SOLUTIONS, INC.**
14

15 By: Jerry B. Adriano
16 Jerry B. Adriano
17

18 Title: Vice-President Customer Experience,
19 Telesales & Base Management Outreach
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SETTLEMENT AGREEMENT
(No. 09-cv-01211 JLR) – 26

59113-0070/LEGAL19964421.3

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